

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:90-00064

TERRY WAYNE KIRBY

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER  
MEMORANDUM OPINION AND ORDER

On January 29, 2016, the United States of America appeared by Joshua C. Hanks, Assistant United States Attorney, and the defendant, Terry Wayne Kirby, appeared in person and by his counsel, Gary A. Collias, for a hearing on the petition on supervised release submitted by United States Probation Officer Douglas W. Smith. The defendant commenced a one-year term of supervised release in this action on May 26, 2015, as more fully set forth in the Supervised Release Revocation and Judgment Order entered by the court on May 26, 2015.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respect: the defendant failed to abide by the special condition that he participate on an in-patient basis in the psychiatric care program at the Mildred Mitchell-Bateman Hospital in Huntington, West Virginia, for a period of five (5) months beginning on May 26, 2015, inasmuch as on July 24, 2015, he left the program without permission rendering his whereabouts unknown until he was arrested on January 11, 2016; as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violation warrants revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violation if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

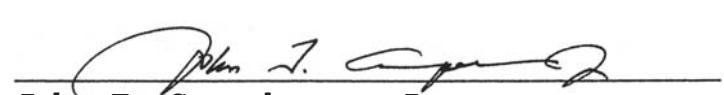
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of SIX (6) MONTHS.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the Bureau of Prisons consider the defendant's need for psychiatric care in determining the appropriate designation.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: February 2, 2016

  
John T. Copenhaver, Jr.  
United States District Judge